

appropriation of revenues hereunder shall be subordinate to the appropriation and pledge of gross or net revenues of the recreation program, or any part thereof, for the payment and security of any revenue bonds issued or to be issued to finance land, buildings, or facilities for the program.

Sec. 4. This act shall be effective only after its approval by a majority of the governing body of the city of Saint Paul and upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved May 18, 1973.

CHAPTER 327—H.F.No.1969

[Not Coded]

An act relating to the city of Duluth; authorizing organization of a Spirit Mountain recreation area authority; conferring upon said authority the power and duty to administer, promote, control, direct and manage the organization and ongoing operation of said recreation area; and providing for a tax levy and issuance of bonds.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **DULUTH, CITY OF; SPIRIT MOUNTAIN RECREATION AREA AUTHORITY; PURPOSE.** The purpose of this act is to facilitate the development of a land area with the following objectives: (1) The development of wide-range recreational facilities available to both local residents and tourists; (2) The aiding of the economy of northeastern Minnesota by encouraging private enterprise efforts in conjunction with the recreational facilities; and (3) The preservation of the environment in the area by a timely and intelligent plan of development.

Sec. 2. **SPIRIT MOUNTAIN RECREATION AREA AUTHORITY.** Subdivision 1. There is hereby created a Spirit Mountain recreation area authority, hereinafter referred to as the authority, which shall administer as hereinafter provided, the tracts of land described as follows:

A main area consisting of: That part of the South Half (S ½) of Section Fourteen (14), Township Forty-Nine (49), Range Fifteen (15), lying south of the Duluth Missabe and Iron Range Railway right of way and north of the Duluth Winnipeg & Pacific Railway right of way and excepting the

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East Half (E ½) of the Southeast Quarter (SE ¼). Section Twenty-Two (22), Township Forty-Nine (49), Range Fifteen (15) except the southerly one thousand (1,000) feet of the Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) and except the Southerly one thousand (1,000) feet of Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼). In that part of Section Twenty-Three (23), Township Forty-Nine (49), Range Fifteen (15) lying northwest of the Duluth Winnipeg & Pacific Railway right of way.

A western peripheral area consisting of the following land: Section Twenty-Seven (27), Township Forty-Nine (49), Range Fifteen (15) except that part lying east of the Duluth Winnipeg & Pacific Railway and except that part known as Riverside Park Second Addition. That part of Section Thirty-Four (34), Township Forty-Nine (49), Range Fifteen (15) lying northwesterly of the Duluth Winnipeg & Pacific Railway right of way.

An eastern peripheral area consisting of the following land: That part of the South Half (S ½) of the Northeast Quarter (NE ¼) of Section Fourteen (14), Township Forty-Nine (49), Range Fifteen (15), lying east of the Duluth Winnipeg & Pacific Railway right of way, except that part used for highway purposes and that part of the East Half (E ½) of the Southeast Quarter (SE ¼) lying north of the Duluth Winnipeg & Pacific Railway right of way, except the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼).

These boundaries may be changed by the legislature at the request of the authority subject to the approval of the park and recreation board and planning commission.

Subd. 2. The management of the authority is hereby vested in seven directors appointed, after consultation with the planning commission and the park and recreation board, by the mayor of the city of Duluth. Directors must be approved by resolution of the city council. They shall serve without compensation, but may be reimbursed for necessary expenses incurred in the fulfillment of their duties. The term of three of the original directors shall be two years each and the term of four of the original directors shall be three years each, and until their successors are appointed and qualify. Thereafter, terms of directors shall be three years and until their successors are appointed and qualify. All terms shall expire on June 30. Vacancies occurring by reason of resignation, death, or removal for neglect or failure to perform the duties of a director shall be filled for the unexpired term by the mayor of Duluth following the same procedure as in the original appointments. Every appointee who fails within ten days after notifica-

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tion of his appointment to file with the city clerk his oath or affirmation to perform faithfully, honestly, and impartially the duties of his office, shall be deemed to have refused such appointment, and thereupon another person shall be appointed in the manner prescribed herein. Directors shall not have any personal financial interest, direct or indirect, in any contract with the authority, or be engaged in any capacity where a conflict of interest may arise.

Subd. 3. Within 30 days after all original directors of the authority have been appointed and qualified for office, the authority shall hold an organizational meeting, at which time bylaws, rules and regulations consistent with and designed to further the purposes of this act, shall be adopted, subject to the power of the authority to amend, revise or implement said bylaws, rules and regulations consistent with the purposes of this act.

Subd. 4. The directors shall elect a chairman, vice-chairman and secretary. The secretary need not be a member of authority. No director may hold more than one of the above offices. The officers shall have all powers and duties normally attendant upon such offices and any additional powers and duties consistent with this chapter which may be provided for from time to time by the authority. Terms of the above officers shall be for one year unless the authority provides otherwise.

Subd. 5. The city treasurer of the city of Duluth shall be treasurer of the authority. The treasurer shall receive and have custody of all money of the authority from whatever source derived, and such money shall be deemed public funds. The treasurer shall disburse such funds only in accordance with the annual budget of the authority as approved by the city council at the time the annual city budget is adopted and only upon written orders drawn against such funds, signed by the executive director, if any, or by the chairman of the authority, or the vice-chairman in his absence. Each order shall state the name of the payee, and the nature of the claim for which the same is issued. The treasurer shall keep an account of all moneys coming into his possession, showing the source of all receipts, and the nature, purpose and authority of all disbursements. At times to be determined by the finance director of the city of Duluth but not less than once a month, the authority shall file with the city clerk a financial statement of the authority, in a form prescribed by the finance director, showing all receipts and disbursements, their nature, the moneys on hand, and the purposes for which the same are applicable, the credits and assets of the authority, and its outstanding liabilities.

Subd. 6. Within the total budget approved by the city council as provided in subdivision 5, the authority has exclusive power to

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receive, control, and order the expenditure of any and all moneys and funds in the control and management of the Spirit Mountain recreation area as hereinafter provided.

Sec. 3. FUNDING. Notwithstanding anything to the contrary contained in any law or in the charter of the city of Duluth or in any ordinance of the city, there is hereby created in the treasury of the city of Duluth a Spirit Mountain special fund, hereinafter referred to as the special fund, and a Spirit Mountain operating fund, hereinafter referred to as the operating fund. The moneys in the special fund shall be used solely for the acquisition of land, the building of facilities and buildings integral to the operation of the Spirit Mountain recreation area, and the future capital improvement of the Spirit Mountain recreation area. The proceeds from the bonds hereinafter provided for shall be directed to the special fund, except for an amount not to exceed \$250,000 which may be directed to the operating fund to meet initial operation expenditures; and in addition, the authority shall use from the proceeds of said bond issue a sum sufficient to reimburse the general fund of the city for all costs or expenses that may have been incurred by the city in the development of the Spirit Mountain recreation area.

The special fund shall consist of the following funds and interest thereon:

(1) All moneys derived from the issuance and sale of bonds by the authority with the approval and ratification of the city council to provide funds for the establishment or creation of the Spirit Mountain recreation area, and the building of facilities in said area.

(2) All moneys appropriated or otherwise made available to the city of Duluth or the authority for the establishment of the Spirit Mountain recreation area, including funds appropriated by state or regional political entities.

(3) All moneys appropriated by the city of Duluth and made available to the authority for land acquisition in said area and the construction and equipping of recreational facilities in said area.

(4) All moneys made available to the city and the authority from the government of the United States, including funds received from the department of the interior, the economic development agency, the Great Lakes regional commission, and any other department or agency thereof, for the purpose of establishing, acquiring, constructing and equipping a recreational facility at Spirit Mountain.

The operating fund shall consist of:

All other moneys within the possession of the authority not included in the special fund and which are to be used for the

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operation, promotion, maintenance, or betterment of the Spirit Mountain recreation area.

Sec. 4. **AUDIT.** At least once each year the city auditor, under the direction of the city director of finance, shall make or cause to be made, at the expense of the authority, a complete examination and audit of all books and accounts of the authority; and for such purpose the city auditor shall have the power to inspect and examine such books and accounts at any time during regular business hours and at such intervals as he may determine. One copy of such yearly audit shall be filed by the city auditor with the city clerk as a public document.

Sec. 5. **POWERS AND DUTIES.** Subdivision 1. Notwithstanding anything to the contrary contained in any law or in the charter of the city of Duluth, or in any ordinance thereof, there is hereby conferred upon such authority the following powers and duties:

- (a) To sue and be sued;
- (b) To enter into and execute agreements, instruments, and other arrangements which are necessary, proper, and convenient to the exercise of its powers;
- (c) To acquire, within the existing area boundaries, in the name of the city of Duluth by purchase, lease or gift all real or personal property, easements, or other rights which may be necessary or proper for the establishment, maintenance and improvement of the Spirit Mountain recreation area, provided however that any acquisition of real property shall require prior council authorization in the form of a resolution;
- (d) To manage and control the area included in the Spirit Mountain recreation area on behalf of the city of Duluth for purposes consistent with this act, subject to the limitations herein contained;
- (e) The authority may construct and maintain buildings, facilities, and other equipment consistent with the purposes of this act. Previous zoning requirements within the recreation area shall be superseded by this act and replaced by procedures outlined hereinafter. Permitted uses include all forms of recreational facilities, including buildings and equipment, and commercial and recreational enterprises designed to be compatible with the recreational use of the area and to accomplish the purposes of this act, including, but not limited to, food services, intoxicating and nonintoxicating beverage sales, various forms of lodging, and shops which complement the recreational usage of the area. The authority may lease, sell or contract for the use of land within the area to individuals or firms for the aforesaid purposes.

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Prior to construction of any building or facility or any other use of the area by the authority or others, the city council, upon recommendation of the city planning commission and the city park and recreation board shall review and approve a master plan for the development of the area and any subsequent changes to said master plan. Further, prior to the construction of any buildings or facility or prior to any site preparation or removal of vegetation or initiation of any use within the area, the authority or any other person or firm shall obtain a permit from the city council after the city planning commission and city park and recreations board have held a public hearing and given their recommendations to the council. The planning commission, working jointly with the park and recreation board, shall adopt necessary and reasonable requirements for such review to insure that the proposed use is within the purposes of this act and shall attach appropriate conditions and safeguards to insure compliance. The construction and maintenance codes of the city of Duluth shall apply to construction and maintenance in the area;

(f) To lease, sell or contract in any manner for the use of real and personal property within the area under the authority's jurisdiction for any use consistent with the purposes of this act. All such leases shall contain provisions designed to adjust revenues in relation to variables such as inflation, increased land valuation, or increased gross revenue. All leases shall require council approval. Land sales shall be subject to planning commission and park and recreation board approval and must be confirmed by resolution on an $\frac{2}{3}$ vote of the city council;

(g) To accept gifts, grants, or loans of money or other property from the United States, the state, or any person or entity; for such purposes the authority may enter into any agreement required in connection therewith, subject to approval by the city council.

The powers conferred in this section shall be limited as provided in this paragraph. The authority has sole control over the main recreation area, but shall share control of the western peripheral area with the park and recreation board. Uses of the western peripheral area will be confined to the development of recreational trails, the use of which will be consistent with the purposes of this chapter, and public roadways. Such uses will require prior approval of the park and recreation board. Uses of the eastern peripheral area will be confined to recreational trails, necessary roadways, the provision of a right of way for travel to the zoo, and changes or improvements to the zoo property. Such changes in the eastern peripheral area will require prior park and recreation board approval and be subject to any pre-existing rights and duties given to the arrowhead zoological society as a result of contracts between the city and the society.

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Subd. 2. Notwithstanding any other provision of this act, the city charter, or ordinances to the contrary, the authority may enter into a management contract with a qualified person or persons for the operation of all or any part of the recreational facilities in the Spirit Mountain recreation area.

Subd. 3. Notwithstanding any other provision of this act, the city charter, city ordinances, or state statutes to the contrary, the authority may construct, maintain, improve, and operate, within the main area as described above in designated areas approved by the city council and city planning commission, recreational housing consistent with the use of the area for the purposes of this act; or in the alternative, the authority may lease or contract with others for the use of such designated areas for similar purposes. The construction of motel, hotel, or campgrounds or other tourist and guest facilities designed to serve the users of the recreation area shall be considered a use consistent with the purposes of this act. However, the construction of permanent residential housing, including condominiums, shall be considered inconsistent with the purposes of this act.

Subd. 4. The authority shall have the power:

(a) To appoint at its discretion an executive director and such other executive and administrative employees as the authority deems necessary, including consultants, except attorneys; and to prescribe the duties and fix the compensation of such executive director and other executive and administrative employees or consultants. Neither the executive director nor any executive or administrative employees of the authority shall be within the civil service classifications of the city of Duluth. The provisions of Minnesota Statutes, Sections 197.45 to 197.47 shall not be applicable to any employee of the authority employed pursuant to this section;

(b) To hire such other employees as may be necessary for the operation of the recreation area. These employees shall not be subject to civil service classification, nor shall the provisions of Minnesota Statutes, Sections 197.45 to 197.47 apply to their positions;

(c) To prescribe or provide for a policy or policies of insurance for the defense and indemnification of the city of Duluth, its officers and employees, and directors, executive director, executive and administrative officers of the authority, and other employees of the authority against claims arising against them out of the performance of duty, whether such claims be groundless, or otherwise. Premiums for any policies of insurance required by this subdivision shall be paid for out of the operating funds of the Spirit Mountain recreation area authority;

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(d) To utilize the services and facilities of the department of finance and the city treasurer of the city of Duluth in the implementation of this act; and to pay the city for all charges and costs for such services. The city attorney and the purchasing agent shall be the attorney and purchasing agent, respectively, for the authority; and the authority shall reimburse the city for all charges and costs incurred by the city therefor;

(e) To authorize and direct the city treasurer to invest, in the manner provided by law, any funds held in reserve, or sinking funds, or any funds not required for immediate disbursement;

(f) To fix, alter, change, and collect fees, rentals, and all other charges to be made for all services or facilities furnished by the authority to the public, or to any persons, or public or private agencies.

Subd. 5. The authority shall appoint a person who shall be responsible for the custody and control of all moneys received and collected from the operation of the Spirit Mountain recreation area until such moneys are delivered to the city treasurer and he shall have obtained a receipt therefor, or until such moneys are deposited in a bank account under the control of the city treasurer, subject, however, to the right of the authority to enter into a management contract of all or part of the facilities and the corresponding delegation of custody and control of moneys which would be necessary under such arrangements.

Subd. 6. The person delegated by the authority to have custody and control of funds pursuant to subdivision 5, or the management contractee designated pursuant thereto, shall carry a bond in an amount of \$50,000, or such other amount as is determined by the authority, that he would be expected to control at any one time. In the case of the former delegation the authority shall pay the premium on the bond and in the case of the latter delegation the contractee shall bear the cost of the premium. In addition, such other officers and employees of the authority may be bonded as required by the authority, such bonds being paid for with authority funds. Bonding provisions shall be subject to the approval of the city attorney.

Subd. 7. The authority shall provide for the following insurance coverages in addition to any other insurance provisions of this act: insurance on its property, rights, and revenue; workmen's compensation insurance; public liability insurance; and such other insurance as may be necessary to protect the insured from any risk or hazard arising from its activities. These may be paid for by the authority or may be part of lease or contract agreements with other parties. The city of Duluth shall be named as an additional insured on all insurance policies. In lieu of providing the insurance

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and bonding requirements of subdivisions 4 to 7, the authority may elect, with the permission of the city, to be insured under policies held by the city.

Sec. 6. EXEMPT FROM TAXATION. Notwithstanding any other provisions of law to the contrary, the property, moneys, and other assets of the authority, or revenues or other income of the authority, and all bonds, certificates of indebtedness, or other obligations issued by the authority with the approval of the city council, and the interest thereon, shall be exempt from all taxation, licenses, fees, or charges of any kind imposed by the state, or by any county, municipality, political subdivision, taxing district, or other public agency or body of the state.

Sec. 7. REVENUE BONDS. Subdivision 1. Notwithstanding any limitations imposed by law or by the charter of the city of Duluth, the authority may issue negotiable revenue bonds for any one or more of its purposes. Revenue bonds under this section shall be issued in such amounts, times, and series as the authority shall determine by resolution, but shall not be issued until approved and ratified by resolution of the city council. Except as otherwise provided by this section, the maturities, any right of prior redemption, execution, paying agency, provision for interest, and other terms of the bonds, shall be subject to the provisions of Minnesota Statutes, Sections 475.54 to 475.56. Said bonds shall not exceed a total of \$2,000,000.

Subd. 2. Revenue bonds issued under this section shall not constitute a debt of the city of Duluth, and no tax levy may be compelled for their payment, but they shall be payable only from the revenues of the recreation area, or parts thereof, pledged by the authority, and confirmed by the city council, to payment of principal thereof and interest thereon; and they shall so recite. At or before the issuance of revenue bonds, the authority, by resolution, and upon approval and ratification of the city council, shall pledge and appropriate to the payment of principal and interest the net revenues of the Spirit Mountain recreation area, or some part thereof, after provision for reasonable and necessary expenses of operation and maintenance, as described and defined in the authorizing resolution.

Subd. 3. In the authorizing resolution, the authority may provide covenants for the protection of the bondholders relating to disposition of bond proceeds and revenues; reserves and investment thereof; construction, acquisition, repair, replacement, operation and insurance of the recreation area buildings and facilities; accounting and reports; issuance of parity or subordinate lien bonds; rates and charges to be established or maintained; and such other covenants as the authority shall find to be usual and reasonable for the protection of revenue bondholders.

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The authority may also define the event or events of default and other requisites for suit by bondholders or their representatives, conditions of bond registration or replacement, and conditions upon which any covenant may be amended. Any terms, covenants, or conditions of revenue bonds to be provided by resolution of the authority may be set forth in a trust indenture with a corporation having trust powers appointed by the authority, with the approval of the city council, to represent and act for bondholders, and to hold and disburse pledged revenues, and to perform such other duties as may be provided in the trust indenture; but no such trust indenture shall confer or authorize any mortgage lien on the real or operating properties or general funds of the authority.

Subd. 4. Revenue bonds of the authority shall be deemed and treated as instrumentalities of a public government agency, and as such, together with interest thereon, are exempt from taxation.

Sec. 8. **GENERAL OBLIGATION BONDS.** Subdivision 1. In addition to the powers contained in section 7, the authority may issue, with the approval and ratification of the city council, general obligation bonds to construct, improve, and equip buildings and facilities consistent with fulfilling the purposes of this act within the recreation area.

Subd. 2. General obligation bonds under this section shall be issued in such amounts as required, but in no event shall they exceed the amount of \$1,000,000, at such times and in such series as the authority shall determine by resolution, subject to the approval and ratification of the city council, evidenced by resolution. Except as otherwise provided by this section, the maturities, any right of prior redemption, execution, paying agency, provision for interest, or other terms of the bonds, shall be subject to the provisions of Minnesota Statutes, Sections 475.54 to 475.56.

Subd. 3. General obligation bonds under this section shall constitute a debt of the city of Duluth for which the full faith and credit of the city shall be pledged; and a tax levy shall be compelled for their payment; and they shall so recite.

Subd. 4. The authority shall maintain a sinking fund for the payment of its general obligation bonds, to which it shall, by said resolution, irrevocably appropriate taxes levied for the payment of principal and interest on said bonds. Any surplus amount resulting from an excess levy shall be transferred to a special account in said sinking fund after the principal and interest for which the tax was levied and collected has been paid. The authority may, on or before October 15 in any year, by appropriate action, transfer to this sinking fund account any money on hand and available in its own treasury from earnings or other income and may cause its

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secretary to certify to the county auditor the total amount in said account which it will use to pay principal or interest or both on its general obligation bonds, and the county auditor shall reduce by that amount the levy otherwise provided for that year, collectible in the ensuing year. The amount of funds so certified shall be set aside by the authority, and shall be used for no other purpose than payment of principal and interest on the bonds. Notwithstanding any other provision of this act, accrued interest on said bonds shall be transferred to said sinking fund and be used for the payment of principal and interest on the bonds.

Sec. 9. ACQUISITION OF PROPERTY. Subdivision 1. The authority shall have no power of eminent domain. However, the city of Duluth may acquire land for the purpose of meeting the objectives of this act by eminent domain. The authority shall reimburse the city for expenses and costs incurred in such proceedings. The city's exercise of eminent domain power shall be in accord with the charter of the city of Duluth, or under Minnesota Statutes, Chapter 117, and acts amendatory thereof or supplementary thereto. The fact that any such property is owned by a public service corporation organized for the purposes specified in Minnesota Statutes, Section 300.03, or is already devoted to a public use, or to use by a corporation, or was acquired therefor by condemnation, shall not prevent its acquisition by the city for the authority by condemnation. The city, on behalf of the authority, may take possession of any property for which condemnation proceedings have been commenced at any time after the filing of the petition describing the property in the proceeding.

Subd. 2. The authority, with the approval of the city council, may acquire in the name of the city all forms of real and personal property from other governmental entities by sale, lease, grant, loan, or any other transfer arrangement when such acquisition is consistent with the authorized purposes of the authority.

Sec. 10. Except for levies necessary to prevent default on the general obligation bonds, other than by section 8 of this act, and notwithstanding any provision of law to the contrary, any revenue necessary for continuance of the city managed portions of the Spirit Mountain Authority shall not be levied as a general or special levy against residents of the city of Duluth.

Sec. 11. This act shall become effective only upon its approval by the city council of the city of Duluth and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 18, 1973.

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